

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO  
JUDGE EDWARD W. NOTTINGHAM  
COURTROOM 14, TENTH FLOOR, ALFRED A. ARRAJ UNITED STATES COURTHOUSE  
CHAMBERS A1041, TENTH FLOOR, ALFRED A. ARRAJ UNITED STATES COURTHOUSE**

**PRACTICE STANDARDS — CIVIL**

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**GENERAL INFORMATION**

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1. Counsel and unrepresented parties are expected to read and strictly observe the Federal Rules of Civil Procedure, the current United States District Court for the District of Colorado Local Rules of Practice, and these Practice Standards — Civil. All of these materials can be accessed through the court’s web site, [www.cod.uscourts.gov](http://www.cod.uscourts.gov).

2. This is a summary of the procedures which I will use for motions, hearings, conferences, and trials in civil cases. If you will take the time to read and follow the attached checklists and instructions, it will greatly assist me and my staff in providing you with a more effective and efficient opportunity to present your case.

3. **Do not deliver pleadings, motions, or correspondence to my chambers;** file all such materials directly with the clerk of the court in room A105. Rule 10.1L of the United States District Court for the District of Colorado Local Rules of Practice (Civil) requires all such materials to be filed in triplicate — original for court file, copy for district judge, copy for magistrate judge— and the clerk several times each day delivers to my chambers all of the district judge’s copies. If you are filing something which you think I need to see immediately, you may send a copy to my chambers by electronic mail. Adhere to the following rules:

- a. Send the electronic mail to [NottinghamChambers@cod.uscourts.gov](mailto:NottinghamChambers@cod.uscourts.gov).

- b. Place the case number (and only the case number) in the “subject” or “re” line of the electronic mail.
- c. Put the title of the pleading, motion, or other paper in the body of the e-mail.
- d. Send the pleading, motion, or other paper as an attachment. The attachment should be in PDF, WordPerfect, or Rich Text Format (RTF), because I know I can retrieve those. Other formats may not work.
- e. As for attachments or exhibits to a pleading, motion, or paper, you’re on your own. As a last resort, you might try scanning them. Do not ask me or the clerk’s office to do so, however, because we don’t have the staff or facilities. If I can retrieve and use the exhibits, I will do so; otherwise, I will just have to work with your paper (see next paragraph).

4. ***Nothing in the preceding paragraph relieves an litigant of the requirements of filing paper in compliance with the federal and local rules.*** I cannot waive those requirements.

5. If you want relief or action from the court, ***you must, without exception, request the relief or action by a written motion, upon notice to all parties of record.*** Do not expect that you can obtain action or relief by a telephonic or other oral request to my secretary, courtroom deputy clerk, docket clerk, or any other person; it will gain you nothing, because their standing instructions are to direct that you file a motion.

6. In a majority of civil cases, a magistrate judge will hold scheduling conferences and decide non-dispositive motions. I will decide dispositive motions. In such cases I usually schedule a *final* pretrial conference, a trial preparation conference, and trial only after motions for summary judgment and other dispositive motions have been resolved. Instructions for preparing the [final pretrial order](#) and [motions for summary judgment](#) are set forth below. These instructions must be followed. (To go directly to the set of instructions, click on its link.)

7. In a few civil cases, I will hold all rule 16 conferences and decide all motions. Additional instructions for preparing the [scheduling order](#) and the [preliminary pretrial order](#) in such cases are set forth below. These instructions must be followed. (To go directly to the set of instructions, click on its link.)

8. You will be notified in writing, by an order of reference or notice of settings entered at the beginning of the case, whether your case is covered in paragraph six or paragraph seven.

9. If you have any questions, you may call my secretary, **Ms. Stacy Steinbrecher** at (303) 844 5018, my courtroom deputy clerk, **Mr. Edward Butler**, at (303) 844 5018, or my docket clerk, **Ms. Patricia Pirner**, at (303) 335 2048. **The law clerks working with me are instructed that they may speak to counsel only pursuant to my specific instructions. Please do not call the law clerks on matters of any type.** Thank you for your cooperation in working with each other and with us to try to achieve the common objective of a fair trial of the issues in your case.

## INSTRUCTIONS FOR PREPARATION AND SUBMISSION OF FINAL PRETRIAL ORDER

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Counsel are directed to meet in advance of the final pretrial conference and jointly develop the contents of the proposed Final Pretrial Order which shall be presented for the court's approval ***no later than five days before the final pretrial conference***. Also, attention is directed to Fed. R. Civ. P. 16(d) ("The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.").

Listed on the following pages are [matters to be included in the Final Pretrial Order](#). For convenience of the court and counsel, the prescribed sequence and terminology should be used in the preparation of the Final Pretrial Order. The bracketed and italicized information on the form explains what the court expects. The form for the Final Pretrial Order can be copied, printed, or downloaded from the court's web site, [www.cod.uscourts.gov](http://www.cod.uscourts.gov). The form is pages four through six of my Practice Standards — Civil posted on the web site. Click first on the "United States District Court" button and then on the "Judges' Information" button to navigate to these trial procedures. A computerized version of the form (in WordPerfect version 9) can be obtained by delivering a 3½" diskette to my secretary or courtroom deputy clerk and asking for a copy of the form.

The Final Pretrial Order shall be double-spaced in accordance with D.C.COLO.LCivR 10.1E, even though the instructions in the following format for the proposed Final Pretrial Order are single-spaced. Please note also that the attached form is customized for proceedings before me, since the magistrate judges are not involved in final pretrial conferences in cases assigned to me. Be careful to use this form, getting an electronic copy from my staff or the web site.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Edward W. Nottingham**

Civil Action No.

@,

Plaintiff,

v.

@,

Defendant.

---

**FINAL PRETRIAL ORDER**

---

**1. DATE OF CONFERENCE**

**2. JURISDICTION**

*[Provide a statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, **give the specific reason** for the denial.]*

**3. CLAIMS AND DEFENSES**

*[Summarize the claims and defenses of all parties, including the respective versions of the facts and legal theories. **Do not copy the pleadings.** Identify the specific relief sought. Eliminate claims and defenses which are unnecessary, unsupported, or no longer asserted.]*

**4. STIPULATIONS**

*[Set forth all stipulations concerning facts, evidence, and the applicability of statutes, regulations, rules, ordinances, etc.]*

**5. PENDING MOTIONS**

*[List any pending motion to be decided before trial, giving the filing date and the filing date of any briefs in support or opposition. Include any motions on which the court has expressly postponed ruling until trial on the merits. If there are no pending motions, please state, "None."]*

## 6. WITNESSES

### a. Non-Expert Witnesses

*[List the non-expert witnesses to be called by each party. List separately:]*

(1) witnesses who will be present at trial (*see* Fed. R. Civ. P. 26[a][3][A])

(2) witnesses who may be present at trial if the need arises (*see* Fed. R. Civ. P. 26[a][3][A])

### b. Expert Witnesses

*[List the expert witnesses to be called by each party. List separately:]*

(1) witnesses who will be present at trial (*see* Fed. R. Civ. P. 26[a][3][A])

(2) witnesses who may be present at trial if the need arises (*see* Fed. R. Civ. P. 26[a][3][A])

**[ADDITIONAL INSTRUCTION:** *With each witness's name, set forth (1) the witness's address and telephone number and (2) whether he or she is currently expected to testify in person or by deposition.*]

## 7. EXHIBITS

### a. List of Exhibits

*[List the exhibits to be offered by each party. This list should be specific enough so that other parties and the court can understand, merely by referring to the list, each separate exhibit which will be offered. General references such as "all deposition exhibits" or "all documents produced during discovery" are unacceptable. If desired, the exhibit list form at the end of these materials may be used. The form is available from the court's web site at the same location as this Final Pretrial Order form.]*

(1) Plaintiff(s):

(2) Defendant(s):

(3) Other parties:

*[The following paragraph shall be included in the Final Pretrial Order:]*

b. Copies of listed exhibits must be provided to opposing counsel no later than five days after the Final Pretrial Conference. The objections contemplated by Fed. R. Civ. P. 26(a)(3) shall be filed with the clerk and served (by hand delivery or facsimile) no later than eleven days after the exhibits are provided.

## 8. DISCOVERY

*[Use the following language:]*

Discovery has been completed. ***[Unless otherwise ordered, upon a showing of good cause in an appropriate motion, there will be no discovery after entry of the Final Pretrial Order.]***

## 9. SPECIAL ISSUES

*[List any unusual issues of law which the court may wish to consider prior to trial. If none, please state, "None."]*

## 10. EFFECT OF FINAL PRETRIAL ORDER

[The following paragraph shall be included in the Final Pretrial Order:]

Hereafter, this Final Pretrial Order will control the subsequent course of this action and the trial, and may not be amended except by consent of the parties and approval by the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged herein. This Final Pretrial Order supersedes the Preliminary Pretrial Order and the Scheduling Order. In the event of ambiguity in any provision of this Final Pretrial Order, reference may be made to the record of the pretrial conference to the extent reported by stenographic notes and to the pleadings.

## 11. TRIAL AND ESTIMATED TRIAL TIME; TRIAL PREPARATION CONFERENCE

a. State (1) whether trial is to the court or a jury, (2) estimated trial time, (3) situs of trial, and (4) any other orders pertinent thereto.

b. Trial Date: \_\_\_\_\_.<sup>1</sup>

c. Trial Preparation Conference Date and Time: \_\_\_\_\_. At the trial preparation conference, counsel are directed to comply with the Instructions Concerning Preparation for Trial Preparation Conference delivered to all parties at the Final Pretrial Conference.<sup>2</sup>

\* \* \* \* \*

Please use the following format in the Final Pretrial Order:

DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

BY THE COURT:

\_\_\_\_\_  
EDWARD W. NOTTINGHAM  
United States District Judge

FINAL PRETRIAL ORDER TENDERED  
FOR REVIEW:

\_\_\_\_\_  
(Name)  
(Address)  
(Telephone Number)  
Attorney for Plaintiff

\_\_\_\_\_  
(Name)  
(Address)  
(Telephone Number)  
Attorney for Defendant

Please affix counsel's signatures before submission of the Final Pretrial Order to the court.

\_\_\_\_\_  
**NOTE TO COUNSEL AND THE PARTIES:** the court will set the trial date at the Final Pretrial Conference; or, if it cannot do so, it will enter further orders concerning a trial setting and further proceedings.

**NOTE TO COUNSEL AND THE PARTIES:** the court will set the date for the Trial Preparation Conference and distribute copies of the "Instructions Concerning Preparation for Trial Preparation Conference" at the Final Pretrial Conference. If counsel want copies of those instructions in advance of the Final Pretrial Conference, they should obtain them from the courtroom deputy clerk or from the court's web site at the same location as this Final Pretrial Order form.

## GENERAL INSTRUCTIONS FOR TRIAL, HEARINGS, OR CONFERENCES

(Click [here](#) to return to Table of Contents)

### 1. ELECTRONIC COURTROOM TECHNOLOGY

a. Courtroom 14 is fully equipped with state-of-the-art courtroom technology. If properly used, this technology will improve the fact-finder's chances of understanding your case and shorten the time required for suitable presentation of the case. Proper use will require that you undertake an effort to learn about the technology and plan your pretrial discovery and document organization so as to take full advantage of the technology. The trial of all cases, not just the lengthy or the complex, will be improved by employing the technology.

b. The technology consists of the following components:

- videoconferencing cameras which will permit witnesses and/or parties to participate in a trial or hearing from a remote location
- an Elmo evidence camera, which will allow any item placed on the camera to be displayed on video screens in front of counsel, the witness, the jury, and the judge
- a video evidence presentation system which will allow the playing of videotaped depositions and the projection of exhibits imaged on a laptop computer onto video screens in front of counsel, the witness, the jury, and the judge
- realtime reporting ports which, at a minimum, will allow participants instantaneously to view a rough transcript of testimony
- infrared receivers and transmitters which will permit the wireless transmission of a recording or an interpreter's voice to any or all trial participants

c. Subject to objections which will be heard on a case-by-case basis, I require, in any instance where a party intends to offer more than ten documents at a trial or evidentiary hearing of any kind, that the party image on a CD-ROM all documents to be offered and tender the CD-ROM to each other party and the court. Thus, there is no longer any need to supply either (1) a copy of all exhibits for the use of the judge and each other party or (2) a copy for each juror of any exhibit which is to be published to the jury. Eventually, I envision a paperless presentation where the official record of paper exhibits in the case would be a CD-ROM. At least during a transition period, however, litigants **must** bring **one** hard copy to make the official record and to be used by jurors during deliberations.

d. Court staff will answer your questions and provide the training necessary to use the equipment. If and when a case is set for a trial or hearing, training will be ordered and scheduled as part of the trial preparation process. If, before your case is set for trial, you think you would like to learn about the equipment in order to organize and preserve discovery materials so as to take advantage of the equipment, we will attempt to schedule periodic general training sessions. Questions about use of realtime reporting, the various levels of realtime service available, and the charges for each level should be directed to **Ms. Therese Lindblom**, (303) 628 7877, the realtime court reporter who usually works with me. All other questions about the equipment or technology should be put to my courtroom deputy clerk, **Mr. Edward Butler**, at (303) 844 5018. Since this technology is new to us, we are happy to consider your ideas as to how better to use it for the purpose of achieving a fair result in each case.

e. The judge's copy of electronic exhibits should be prepared according to the "Technical Specifications for Submission of Judge's Electronic Copies of Trial Exhibits," a copy of which may be obtained from my staff or downloaded from the court's web site.

## 2. RECORDING OF PROCEEDINGS

a. The official record of all trials, conferences, hearings, and other proceedings before me will be taken either by electronic sound (audiotape) recording or by a realtime court reporter. Generally, you may anticipate that short, routine scheduling or pretrial conferences will be taken by electronic sound (audiotape) recording. Trials, evidentiary hearings, and the like will be taken by a realtime court reporter. If you need to know in advance of the proceeding which technology will likely be used, you may call the clerk's court services supervisor, **Ms. Charlotte Hoard**, (303) 335 2100. Regardless of which technology is used, there are a number of steps you can take to facilitate record taking in the courtroom (or at the conference table in chambers).

- Give your business card to the court recorder operator or realtime reporter before the proceeding begins.
- Give the court recorder operator or realtime reporter a complete list of the witnesses you will call during the proceeding, to facilitate correct spelling
- If any of your witnesses will present testimony containing unusual vocabulary, prepare a list of such correctly spelled names and terms for the court recorder operator or realtime reporter.
- Make certain that *verbal* responses are elicited from all witnesses or that some audible indication is made by you through the microphone.
- You will address the court, witnesses, and the jury from a lectern to which a microphone is attached. **Please be sure to speak directly into the microphone.** When you are stating an objection during any proceeding, the court expects you to rise and speak loudly enough to be heard by everyone in the courtroom.
- If there is a sidebar conference during a proceeding which is being recorded electronically, remember to speak directly into the sidebar microphone (which is not connected to the amplifier system).

b. The realtime reporter working with me is **Ms. Therese Lindblom**, (303) 628 7877. Transcripts of proceedings may be ordered from Ms. Lindblom, or Ms. Hoard (303) 335 2100. Cost of audiotapes and realtime services are established by the Judicial Conference of the United States. Requests for daily copy must be made at least ten (10) days before the trial or hearing date.

c. Two levels of realtime reporting are available:

### i. View Only

At the request of any party, or on her own initiative, the realtime reporter will turn on computers and monitors recessed in counsel table and give brief instruction concerning annotation of realtime text by use of the CaseView Software installed on the system. This will permit you to view the unedited transcript and your annotations, but only while you are present in the courtroom. There is no charge for this level of service.

### ii. Full Service

Any party may bring a laptop computer or similar device and connect to realtime ports at counsel tables. You must furnish your own viewer/annotation software. You may view the realtime text, annotate it, and capture it for use outside the courtroom. There is a charge for this level of service, and that



charge is set by the Judicial Conference of the United States.  
Further details can be obtained from Ms. Lindblom.

**3. EXHIBIT LISTS.** Please prepare an index of exhibits which you expect to offer, using the [attached form](#). A computerized version of the form (in WordPerfect version 9.0) can be obtained by delivering a 3½" diskette to my secretary or courtroom deputy clerk and asking for a copy of the form. The form is also the last page of both my Civil Trial Procedures and Criminal Trial Procedures posted on the court's web site, [www.cod.uscourts.gov](http://www.cod.uscourts.gov). Click first on the "United States District Court" button and then on the "Judges' Information" button to navigate to both sets of trial procedures. If you will provide two copies of this form for the court and a copy for opposing counsel, there will be no requirement to offer exhibits in sequence.

**4. EXHIBITS.** The ELECTRONIC COURTROOM TECHNOLOGY described earlier in these procedures will impact the preparation of exhibits. **Please read that section.** (Return to the section by clicking [here](#).) For real exhibits or paper copies of documents, exhibit labels can be obtained from the clerk's office before an evidentiary hearing or trial. Plaintiff's exhibits should be marked with the yellow labels, using numbers. Defendant's exhibits should be marked with the blue labels, and, to differentiate them from plaintiff's exhibits, the numbers should be preceded by the letter "A" (A-1, A-2, A-3 . . . A-1000, etc.) Additional parties, including additional plaintiffs, should differentiate their exhibits from the exhibits of all other parties by using different alphabetical letters preceding the exhibit number. **Do not use double or triple letters.** The civil action number should also be placed on each of the exhibit stickers.

**5. COPIES OF EXHIBITS.** To facilitate the proceedings, it is expected that, if you intend to offer more than ten exhibits, copies of all exhibits will be placed on CD-ROM and that copies of the CD-ROM will be given to the court and counsel. Any publication to the jury will occur by means of the video evidence presentation system.

**6. WITNESSES.** Please provide the court with three copies of the list of your witnesses. One copy will be provided to the realtime reporter or recorder operator.

**7. VOIR DIRE QUESTIONS, VERDICT FORMS, AND PROPOSED INSTRUCTIONS.** I require the filing of jury instructions, voir dire questions, and verdict forms no later than the Trial Preparation Conference. There will also be an additional opportunity to submit proposed instructions during the trial, if those instructions could not be reasonably anticipated. Written instructions will not be given to the jury, so the authority and/or source for an instruction should be noted on the original and all copies. Please number the proposed instructions – e.g., "Plaintiff's Instruction No. 1" – to facilitate reference to them during the instructions conference.

**8. WRITTEN CURRICULUM VITAE.** In trial to the court, a written curriculum vitae, marked as an exhibit, will usually suffice for the qualification of an expert witness.

**9. DEPOSITIONS.** Counsel are reminded that, pursuant to Fed. R. Civ. P. 5(d), depositions, interrogatories, requests for production, requests for admissions, and the responses thereto, are not filed with the clerk unless on special order of the court. The original deposition transcripts should be in the possession of the party to whom they were delivered and **must be brought** to the trial. You are requested to provide a person (who may be co-counsel) to read answers.

**10. SPECIAL EQUIPMENT.** If you intend to use any special equipment such as models, videotapes, movies, slides, or tape recorders, you are asked to call **Mr. Edward Butler at (303) 844 5018** to make appropriate arrangements.

## **11. MISCELLANEOUS MATTERS**

a. During all proceedings, the courtroom deputy clerk will present the exhibits to the witnesses or assist you in putting them on the video screen. Instead of saying, "I hand you what has been marked as exhibit number one . . .", you may simply say, "Please look at exhibit number one . . ." and the exhibit will be placed before the witness or displayed on the witness's video screen. You need not move from the microphone at the

lectern. The courtroom deputy clerk will also control display of exhibits to the jury. An exhibit will not be placed on the jurors' monitors unless (1) it has been received and (2) examining counsel requests that it be displayed.

b. Counsel are ordinarily expected to rise when addressing the court or making an objection.

c. On the first day of trial, counsel are expected to be present, ***ready to proceed***, at 8:45 o'clock a.m. If there is a variance from this time in a given case, you will be notified in advance and should take care to comply with that specific notice. On other days, trials ordinarily begin at 9:00 o'clock a.m., unless otherwise ordered in specific cases.

d. In cases where trial is expected to last more than four days, counsel should be aware that the trial week will ordinarily commence on Monday and end on Thursday. Hearings and conferences in matters other than the one being tried will be scheduled (1) on Fridays or (2) before the trial day commences. Criminal sentencings and arraignments will be held on Fridays.

## SPECIAL INSTRUCTIONS CONCERNING MOTIONS FOR SUMMARY JUDGMENT

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Because of the voluminous factual materials which are frequently submitted with motions for summary judgment, all such motions submitted to me must comply with the following requirements:

1. In a section of the brief required by rule 56.1A of the United States District Court for the District of Colorado Local Rules of Practice (Civil) styled “Statement of Undisputed Material Facts,” the movant shall set forth in simple, declarative sentences, ***separately numbered and paragraphed***, each material fact which the movant believes is not in dispute and which supports movant's claim that movant is entitled to judgment as a matter of law.

2. Each separately numbered and paragraphed fact ***must*** be accompanied by a specific reference to material in the record which establishes that fact. General references to pleadings, depositions, or documents are insufficient if the document is over one page in length. A “specific reference” means:

- a. In the case of papers filed with the court, the title of the paper, the date on which it was filed or served, and a specific paragraph or page and line number; or, if the paper is attached to the motion, the paragraph or page and line number;
- b. In the case of interrogatories or requests for admission (the pertinent parts of which must be filed with the motion), the number of the interrogatory or request;
- c. In the case of depositions or other documents bearing line numbers, the specific page and line(s) establishing the fact;
- d. In the case of affidavits submitted in support of the motion, the specific paragraph number establishing the fact;
- e. In the case of other materials not numbered by paragraph, line, or page, a reference which will enable the court to ascertain the fact without reviewing the entire document; the effort at specificity may be made by highlighting, manual underscoring, or pagination supplied by the movant.

3. Only if the nature of the material fact does not permit a specific reference (*e.g.*, “The contract contains no provision for termination.”), is a general reference sufficient.

4. Any party opposing the motion for summary judgment shall, in a section of the brief required by rule 56.1A of the United States District Court for the District of Colorado Local Rules of Practice (Civil) styled “Response to Statement of Undisputed Material Facts,” admit or deny the asserted material facts set forth by the movant. The admission or denial shall be made in separate paragraphs numbered to correspond to movant's paragraph numbering. Any denial shall be accompanied by a *brief* factual explanation of the reason(s) for the denial and a ***specific reference*** to material in the record supporting the denial.

5. If the party opposing the motion believes that there exist additional *disputed* questions of fact which he has not adequately addressed in the submissions he has made pursuant to paragraph 4 (for example, disputed facts concerning an affirmative defense), the party shall, in a separate section of the party's brief styled “Statement of Additional Disputed Facts,” set forth in simple, declarative sentences, ***separately numbered and paragraphed***, each additional, material disputed fact which undercuts movant's claim that he is entitled to judgment as a matter of law. Each separately numbered and paragraphed fact shall be accompanied by a ***specific reference*** to material in the record which establishes the fact or at least demonstrates that it is disputed.

6. If the movant desires to file a reply brief, it will:

a. In a separate section styled “Reply Concerning Undisputed Facts,” contain any factual reply which movant cares to make regarding the facts asserted in his motion to be undisputed, supported by *specific references* to material in the record. The reply will be made in separate paragraphs numbered according to his motion and the opposing party's response.

b. In a separate section styled “Response Concerning Disputed Facts” (with respect to each fact which the opposing party, pursuant to paragraph 5, claims to be in dispute), either admit that the fact is disputed or supply a *brief* factual explanation for his position that the fact is undisputed, accompanied by a *specific reference* to material in the record which establishes that the fact is undisputed. This will be done in paragraphs numbered to correspond with the opposing party's paragraph numbering.

7. The sole purpose of these procedures is to establish facts and determine which of them are in dispute. *Legal* argument is not permitted here and should be reserved for separate portions of the briefs. If it is believed that an established fact is immaterial, for example, that belief should be expressed in the part of the briefs devoted to legal argument, and the fact should be admitted. If, on the other hand, it is believed that the reference to material in the record simply does not support the claimed fact, that *factual* argument may appropriately be made pursuant to these procedures.

8. Failure to follow these procedures will result in an order striking or denying the motion or brief, and it will have to be re-submitted. Repeated failure to follow them may result in an order granting other proper relief.

## **INSTRUCTIONS FOR PREPARATION OF SCHEDULING ORDER**

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Five days before the scheduling conference (see Fed. R. Civ. P. 6 for all computations of time), counsel are to tender a proposed SCHEDULING ORDER which shall include the signatures of counsel and *pro se* litigants and provide for **approval by the court** as specified on the [attached form](#). Counsel should try in good faith to agree upon matters covered in the Scheduling Order. Any area of disagreement should be set forth with a brief statement concerning the basis for the disagreement. The parties should expect that the court will make modifications in the proposed Scheduling Order and will want to discuss all issues affecting management of the case. **Please note that the form of Scheduling Order set out on the form requires more than the minimum information listed in D.C.COLO.LCivR Appendix F. Because I hold a preliminary pretrial conference in most cases, the form also differs in certain particulars from the form used by other judicial officers in this district. It must be followed for all discovery and scheduling conferences before me.**

Listed on the following pages is the format for the proposed Scheduling Order. The bracketed and italicized information on the form explains what the court expects. A computerized version of the form (in WordPerfect version 9.0) can be obtained by delivering a 3½" diskette to my secretary or courtroom deputy clerk and asking for a copy of the form. The form is also pages fourteen through seventeen of my Practice Standards — Civil posted on the court's web site, [www.cod.uscourts.gov](http://www.cod.uscourts.gov). Click first on the "United States District Court" button and then on the "Judges' Information" button to navigate to this set of trial procedures.

The Scheduling Order shall be double-spaced in accordance with D.C.COLO.LCivR 10.1E, even though the instructions in the following format for the proposed Scheduling Order are single-spaced.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Edward W. Nottingham**

Civil Action No.

@,

Plaintiff,

v.

@,

Defendant.

---

**SCHEDULING ORDER**

---

**1. DATE OF CONFERENCE**

**2. STATEMENT OF CLAIMS AND DEFENSES**

a. *Plaintiff(s):*

b. *Defendant(s):*

c. *Other Parties:*

*[Provide concise statements of all claims or defenses. Each party should, in light of formal or informal discovery undertaken thus far, take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 16(c)(1), 11. Do not summarize the pleadings. Statements such as “defendant denies the material allegations of the complaint,” are not acceptable.]*

**3. UNDISPUTED FACTS**

The following facts are undisputed:

a.

b. . . . etc.

*[When counsel have their rule 26(f) meeting, they should make a good faith attempt to determine which facts are not in dispute.]*

**4. COMPUTATION OF DAMAGES**

*[Include a computation of all categories of damages sought and the basis and theory for calculating damages. See Fed. R. Civ. P. 26(a)(1)(C). This should include the claims of all parties. It should*

*also include a description of the economic damages, non-economic damages, and physical impairment claimed, if any.]*

## **5. REPORT OF PRE-CONFERENCE DISCOVERY AND MEETING UNDER FED. R. CIV. P. 26(F)**

- a. Date of rule 26(f) meeting.
- b. Names of each participant and party he/she represented.
- c. Proposed changes, if any, in timing or requirement of disclosures under Fed. R. Civ. P. 26(a)(1).
- d. Statement as to when rule 26(a)(1) disclosures were made or will be made. *[If a party's disclosures were not made within the time provided in Fed. R. Civ. P. 26(a)(1), the party must here provide an explanation showing good cause for the omission.]*
- e. A statement concerning any agreements to conduct informal discovery, including joint interviews with potential witnesses, exchanges of documents, and joint meetings with clients to discuss settlement. If there is agreement to conduct joint interviews with potential witnesses, list the names of such witnesses and a date and time for the interview which have been agreed to by the witness and all counsel.

## **6. CASE PLAN AND SCHEDULE**

### **a. Deadline for Joinder of Parties and Amendment of Pleadings:**

*[Set time period within which to join other parties and to amend all pleadings. This portion of the Scheduling Order relates to timing only. It does not eliminate the necessity to file an appropriate motion and to otherwise comply with Fed. R. Civ. P. 15. Unless otherwise ordered in a particular case, for good cause, these dates should be no later than twenty days after the date of the scheduling conference, so as to minimize the possibility that late amendments and joinder of parties will precipitate requests for lengthy extensions of discovery cutoff, final pretrial conference, and dispositive motion dates. Counsel should plan discovery so that discovery designed to identify additional parties or claims is completed well before these deadlines.]*

### **b. Discovery Cut-off:**

### **c. Dispositive Motion Deadline:**

*[Set time periods in which discovery is to be completed and dispositive motions filed. (See and follow dates established in Order and Notice of Settings. If the persons signing the Scheduling Order unanimously agree to dates earlier than those established in the Order and Notice of Settings, these earlier dates may be used here.)]*

**d. Deposition Schedule:**

<i>Name of Deponent</i>	<i>Date of Deposition</i>	<i>Time of Deposition</i>	<i>Expected Length of Deposition</i>

*[List the names of persons to be deposed and a schedule of any depositions to be taken, including (i) a good faith estimate of the time needed for the deposition and (ii) time(s) and date(s) for the deposition which have been agreed to by the deponent and persons signing the Scheduling Order. Unless otherwise ordered, for good cause (e.g., counsel do not know the names of any deponent without further discovery), counsel must confer in advance of the Scheduling Conference, identify the persons they wish to depose, schedule specific dates and times for these depositions, and set forth those dates and times in the Scheduling Order.]*

**e. Interrogatory Schedule**

*[Set a schedule for the submission of and response to written interrogatories, if any are desired. The schedule must provide for service of the initial round of interrogatories no later than forty-five days before the Preliminary Pretrial Conference.]*

**f. Schedule for Request for Production of Documents**

*[Set a schedule for the submission of and response to requests for documents, if any are desired. The schedule must provide for service of the initial round of requests no later than forty-five days before the Preliminary Pretrial Conference.]*

**g. Discovery Limitations:**

- (1) any limits which any party wishes to propose on the number of depositions.
- (2) any limits which any party wishes to propose on the length of depositions.
- (3) modifications which any party proposes on the presumptive number of depositions or interrogatories contained in the federal rules.
- (4) limitations which any party proposes on number of requests for production of documents and/or requests for admissions.

*[At the rule 26(f) meeting, the parties should make a good faith attempt to agree to limit the number of depositions, interrogatories, requests for admissions, and requests for production. In the majority of cases, the parties should anticipate that discovery will be limited as specified in Fed. R. Civ. P. 30(a)(2)(A), 33.]*

**h. Other Planning or Discovery Orders**

*[Set forth any other proposed orders concerning scheduling or discovery.]*



## 7. SETTLEMENT

*[The parties must certify here that, as required by Fed. R. Civ. P. 26(f), they have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. They must also report the result of any such meeting, and any similar future meeting, to the magistrate judge who is assigned to supervised settlement discussions within ten days of the meeting.]*

## 8. OTHER SCHEDULING ISSUES

a. A statement of those discovery or scheduling issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement, to the extent that the parties have not described these issues in preceding sections.

b. Anticipated fields of expert testimony, if any.

*[This section is intended to elicit disclosure, in general terms, of potential areas of expert testimony. It is my sense that the parties will not have identified specific experts or be in a position to set a schedule for disclosure. Please note that disclosure of specific written information concerning experts, see Fed. R. Civ. P. 26(a)(2), is ordinarily a matter covered in preparation for the Preliminary Pretrial Conference. (See next section of these Practice Standards — Civil. If the parties all wish to provide for disclosure of this specific information earlier than the date of the Preliminary Pretrial Conference, they may set forth this earlier schedule here.)]*

c. Anticipated length of trial and whether trial is to the court or jury.

## 9. AMENDMENTS TO SCHEDULING ORDER

Include a statement that the Scheduling Order may be altered or amended only upon a showing of good cause.

\* \* \* \* \*

*[Provide names, addresses, telephone numbers, and signatures of counsel and provision for approval of the court and signature line for the judge, using the following format:]*

DATED this \_\_\_ day of \_\_\_\_\_, 200\_\_.

BY THE COURT:

\_\_\_\_\_  
Edward W. Nottingham  
United States District Judge

SCHEDULING ORDER TENDERED  
FOR REVIEW:

\_\_\_\_\_  
(Name)  
(Address)  
(Telephone Number)  
Attorney for Plaintiff

\_\_\_\_\_  
(Name)  
(Address)  
(Telephone Number)  
Attorney for Defendant

Please affix counsel's signatures before submission of the proposed Scheduling Order to the court.

## INSTRUCTIONS CONCERNING PREPARATION FOR PRELIMINARY PRETRIAL CONFERENCE

(Click [here](#) to return to Table of Contents)

Eleven days before the Preliminary Pretrial Conference (see Fed. R. Civ. P. 6 for all computations of time), counsel are to tender a proposed PRELIMINARY PRETRIAL ORDER which shall include the signatures of counsel and pro se litigants and provide for ***approval by the court*** as specified on the attached form. The purpose of the Preliminary Pretrial Order is to structure the transition of the case from discovery to trial preparation.

Listed on the following pages are [matters to be included in the Preliminary Pretrial Order](#). For convenience of the court and counsel, the following sequence and terminology must be used in the preparation of the Preliminary Pretrial Order, **with each of the items listed below capitalized as a heading**. The bracketed and italicized information on the form explains what the court expects. A computerized version of the form (in WordPerfect version 9.0) can be obtained by delivering a 3½" diskette to my secretary or courtroom deputy clerk and asking for a copy of the form. The form is also pages nineteen through twenty-four of my Practice Standards — Civil posted on the court's web site, [www.cod.uscourts.gov](http://www.cod.uscourts.gov). Click first on the "United States District Court" button and then on the "Judges' Information" button to navigate to this set of trial procedures.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Edward W. Nottingham**

Civil Action No.

@,

Plaintiff,

v.

@,

Defendant.

---

**PRELIMINARY PRETRIAL ORDER**

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**1. DATE OF CONFERENCE**

**2. JURISDICTION**

[Provide a statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, **give the specific reason** for the denial and **include a statement concerning the feasibility of determining jurisdictional issues in advance of trial.**]

**3. CLAIMS AND DEFENSES**

[Summarize the claims and defenses of all parties, including the respective versions of the facts and legal theories. **Do not copy the pleadings.** If claims have narrowed or changed since entry of the Scheduling Order, that change should be reflected here. Each party should, in light of discovery undertaken thus far, take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 16(c)(1), 11.]

**4. PENDING MOTIONS**

[List any pending motion, giving the filing date and the filing date of any briefs in support or opposition. If there are no pending motions, please state, "None."]

## 5. WITNESSES

a. List all persons who may be called as witnesses by each party, together with the address and telephone number of each witness, if that information has not already been supplied under Fed. R. Civ. P. 26(a)(1).

(1) *Plaintiff(s)*

(2) *Defendant(s)*

(3) *Other Parties*

***[The following paragraphs shall also be included in the Preliminary Pretrial Order:]***

b. The names, addresses, and telephone numbers of any additional non-expert witnesses must be disclosed in writing to opposing counsel within ten (10) days of the date on which they become known or, in the exercise of due diligence, should have become known. *See* Fed. R. Civ. P. 26(a)(3). Failure to disclose a witness under the terms of this paragraph precludes listing the witness in the Final Pretrial Order, unless the party can show good cause for the omission.

### c. Disclosure of Expert Testimony

No later than eleven days after entry of this Preliminary Pretrial Order, any party with the burden of proof on an issue shall serve all other parties with a report which shall identify any person whom that party expects to call as an expert witness at trial under Fed. R. Evid. 702. Except as otherwise stated in this paragraph, the report shall contain all the information specified in Fed. R. Civ. P. 26(a)(2)(B). Within eleven days after such service, any other party wishing to call a rebuttal expert shall serve all other parties with a report which shall identify such expert and which, except as otherwise stated in this paragraph, shall contain all the information specified in Fed. R. Civ. P. 26(a)(2)(B). This Preliminary Pretrial Order requires rule 26(a)(2)(B) reports from any person who will provide expert testimony — including, for example, a treating physician — except that a treating physician's report need not contain a recitation of compensation paid to the physician or a list of other cases in which the physician has given testimony. *See* Fed. R. Civ. P. 26(a)(2) advisory committee's note ("requirement of written report may be . . . imposed upon additional persons who will provide opinions under [r]ule 702").

## 6. REMAINING DISCOVERY

### a. Depositions:

<i>Name of Deponent</i>	<i>Date of Deposition</i>	<i>Time of Deposition</i>	<i>Expected Length of Deposition</i>	<i>Why Deposition Not Completed Earlier and Objections to Taking Now</i>


[Provide the names of persons remaining to be deposed before the discovery cutoff and a schedule of remaining depositions, which schedule shall include (i) a good faith estimate of the time needed for the deposition, (ii) date(s) and time(s) for the deposition which have been agreed to by the persons signing the Preliminary Pretrial Order, and (iii) (last column) *if the deposition was one which was previously scheduled to be taken before the Preliminary Pretrial Conference*, a statement as to why the deposition has not been completed and a notation of any party's objections to completion of the deposition after the Preliminary Pretrial Conference.]

#### **b. Interrogatories and Requests for Documents**

[Provide a schedule for the submission of and response to additional written interrogatories and requests for documents, together with an explanation concerning the reason(s) why the interrogatories or document requests were not submitted at least forty-five days before the Preliminary Pretrial Conference and a notation of any party's objections to service after the expiration of this time.]

#### **c. Requests for Admissions**

[Provide a schedule for the submission of and response to requests for admissions.]

#### **d. Other Discovery Orders and Issues**

[Include a statement of further limitations to be placed on discovery, including further protective or confidentiality orders, if any.]

### **7. SETTLEMENT**

***[The following paragraphs shall be included in the Preliminary Pretrial Order:]***

The undersigned counsel for the parties hereby certify that:

a. They met (in person) (by telephone) on \_\_\_\_\_, 200\_\_, to discuss in good faith the settlement of this case.

b. The following persons participated in the settlement conference:

For plaintiff(s):            Counsel: \_\_\_\_\_

Other participants: \_\_\_\_\_

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For defendant(s): Counsel: \_\_\_\_\_

Other participants: \_\_\_\_\_

---

For (insert other parties): Counsel: \_\_\_\_\_

Other participants: \_\_\_\_\_

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c. The parties were promptly informed of all offers of settlement.

d. Counsel (do) (do not) intend to hold future settlement conferences prior to the close of discovery.

e. It appears from the discussion by all counsel that there is  
(a good possibility of settlement).  
(some possibility of settlement).  
(little possibility of settlement).  
(no possibility of settlement).

f. The following specific problems have created a hindrance to settlement of this case:

\_\_\_\_\_

---

g. The date of the next settlement conference before the magistrate judge is \_\_\_\_\_.

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## **8. SPECIAL ISSUES**

a. Include a statement of those discovery or scheduling issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement. If none, please state, "None."

b. List any other issues which the court may wish to consider prior to the Final Pretrial Conference. If none, please state, "None."

## **9. TRIAL AND ESTIMATED TRIAL TIME**

a. State (a) whether trial is to the court or a jury, (b) estimated trial time, (c) situs of trial, and (d) any other orders pertinent thereto.

***[The following paragraph shall be included in the Preliminary Pretrial Order]:***

b. Subject to other matters on the court's docket, the trial date and a date for a trial preparation conference will be set by the court at the Final Pretrial Conference heretofore scheduled. Counsel and the parties shall schedule all proceedings in the case so that the case is ready for trial at any time after the Final Pretrial Conference. Specifically, counsel and the parties will strictly observe (a) the discovery cutoff date and (b) the dispositive motion date, so that the court will have the opportunity to consider dispositive motions in advance of the Final Pretrial Conference.

## **10. EFFECT OF PRELIMINARY PRETRIAL ORDER**

[Include a statement that the Preliminary Pretrial Order may be altered or amended upon a showing of good cause.]

## **11. WAIVER OF PRELIMINARY PRETRIAL CONFERENCE**

If the parties unanimously agree, **and if the court approves**, they can waive the Preliminary Pretrial Conference by timely filing a complete Preliminary Pretrial Order. Indicate in this section whether all parties agree to waive the Preliminary Pretrial Conference. If the court approves, all parties will be notified before the Preliminary Pretrial Conference.

\* \* \* \* \*

[Using the following format, provide for names, addresses, telephone numbers, and signatures of counsel and a provision for approval of the court and a signature line for the judge.]

DATED this \_\_\_ day of \_\_\_\_\_, 200\_\_.

BY THE COURT:

---

EDWARD W. NOTTINGHAM  
United States District Judge

PRELIMINARY PRETRIAL ORDER TENDERED  
FOR REVIEW:

---

(Name)  
(Address)  
(Telephone Number)  
Attorney for Plaintiff

---

(Name)  
(Address)  
(Telephone Number)  
Attorney for Defendant

Please affix counsel's signatures before submission of the Preliminary Pretrial Order to the court.

(Name of Party)

CASE CAPTION V.

EX. NO./LTR.	DESCRIPTION	STIP?	REC	REJ	RUL. RES.	COMMENTS
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List First Plaintiff's Exhibits by Number (1, 2, etc . . . 1000), First Defendant's Exhibits by Letter A (A-1, A-2, etc., . . . A-1000), Second Defendant's Exhibits by Letter B (B-1, B-2, etc., . . . B-1000), etc. Other parties in a multi-party case (including additional plaintiffs) should simply use an additional letter to designate the party and differentiate that party from others)

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